

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MICHAEL LOU GARRETT, #258594,)	
Petitioner,)	
)	
v.)	3:05-CV-1033-K
)	
DOUGLAS DRETKE, Director, Texas)	
Department of Criminal Justice,)	
Correctional Institutions Division,)	
Respondent.)	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an order of the District Court in implementation thereof, the subject cause has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge are as follows:

FINDINGS AND CONCLUSIONS:

Following the filing of the habeas corpus petition filed in this action which was accompanied by Petitioner's Application to Proceed in Forma Pauperis, the undersigned magistrate judge filed an order on May 26, 2005, granting him permission to proceed in forma pauperis in this action. Subsequent to the filing of the order the magistrate judge has reviewed sanctioning orders entered by judges of the court which disclosed a judgment filed on July 2, 2001, by the District Court in the Amarillo Division of the Northern District of Texas which barred Garrett from filing "any new civil filings in forma pauperis whether sounding in habeas or in any other area of civil law, unless permission to file has first been obtained from a United States District Judge or a United States Magistrate Judge." See Garrett v. Johnson, 2:01cv0209

(N.D. Tex., Amarillo Div.) (analyzing a habeas corpus petition which raised only civil rights claims).

Petitioner did not seek leave to file from the District Court prior to filing the instant habeas corpus petition pursuant to 28 U.S.C. § 2254. Accordingly, the District Court should withdraw Petitioner's in forma pauperis status in this action and direct the Clerk to unfile the § 2254 petition.

RECOMMENDATION

For the foregoing reasons, it is recommended that Petitioner's in forma pauperis status be withdrawn, and that the Court Clerk be directed to unfile the federal habeas petition filed in this action.

A copy of this recommendation will be mailed to Petitioner.

Signed this 21st day of July, 2005.



WM. F. SANDERSON, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and

conclusions of law accepted by the district court.